STATE BOARD OF EQUALIZATION
STAFF LEGISLATIVE BILL ANALYSIS

Date Amended:	**4/25/00**	Bill No:	**SB 1362**
Tax:	**Property Taxes**	Author:	**Poochigian**
Board Position:	**Support Concept**	Related Bills:	**AB 2092 (Reyes)** **AB 2562 (Brewer)** **SB 2195 (Soto)**

BILL SUMMARY:

This bill, with respect to the disabled veterans' exemption, would:

- raise the income threshold and provide for automatic annual increases for the low income exemption, (§205.5)
- delete the multiple levels of exemption for disability type, (§205.5)
- update the definition of blindness, (§205.5)
- permit partial retroactive exemptions for any eligible person who did not file a claim, (§276)
- permit full retroactive exemptions for veterans awaiting a disability rating, (§276.1) and
- immediately terminate and transfer the exemption from one home to another. (§276.2, §276.3)

ANALYSIS:

Income Threshold

Current Law:

The disabled veterans' exemption applies to the home of a qualified veteran or their surviving unmarried spouse. Depending on the nature of the disability and also the veteran's income, the law provides for an exemption in the amount of $40,000, $60,000, $100,000, or $150,000 of the full cash value of the property, as noted in the table below. In practice, the disabled veterans' exemption is generally granted in either $100,000 or $150,000 amounts. This is because, although the law specifies a different exemption amount for veterans who are blind or who have lost the use of two or more limbs, the Veterans' Administration classifies these injuries as total disability, qualifying the veteran for the higher exemption amount.

Exemption amounts are higher for claimants who have a household income below the amounts specified in Revenue and Taxation Code Section 20585, which sets forth the maximum income levels for eligibility in the Senior Citizens and Disabled Citizens Property Tax Postponement program administered by the State Controller's Office. For persons who have qualified for the program in 1983, Section 20585 sets an income limit of $34,000; for persons who became qualified after 1983 the income limit is reduced to $24,000.

Current law establishes, until January 1, 2001 the following exemption amounts:

Disability Type	Basic Exemption	Low Income Exemption ($24,000 or $34,000)
• Blind[1] • Lost Two or More Limbs	$40,000	$60,000
• Totally Disabled • Active Duty Death	$100,000	$150,000

Beginning January 1, 2001, the exemption amount for virtually all persons who are receiving the exemption will be reduced to $40,000, or to $60,000 for persons with household incomes below either $24,000 or $34,000, as specified.

Disability Type	Basic Exemption	Low Income Exemption ($24,000 or $34,000)
• Blind • Lost Two or More Limbs • Totally Disabled • Active Duty Death	$40,000	$60,000

<u>Proposed Law:</u>

This bill would delete the current income threshold reference to Section 20585, which provides limits of either $24,000 or $34,000, and instead provide an income limit of $40,000. The income limits would be annually increased, beginning in 2002, by an inflation factor, as measured by the California Consumer Price Index for all items.

Disability Type	Basic Exemption	Low Income Exemption ($40,000 + CPI)
• Blind • Lost Two or More Limbs • Totally Disabled • Active Duty Death	$40,000	$60,000

(This bill is double joined to SB 2195 (Soto), which would permanently extend the current exemption amounts of $100,000 and $150,000.)

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[1] In practice, despite the apparent distinction made in existing law that the amount of the exemption varies according to the type of disability, virtually all claimants meet the "totally disabled" classification. To simplify this discussion, the remainder of the analysis will refer to either the $100,000 basic exemption or the $150,000 low income exemption.

In General:

Section 4(a) of Article XIII of the California Constitution grants the Legislature the authority to exempt from property tax, in whole or in part, the home of a person (or a person's spouse) who is injured in military service. This exemption is commonly referred to as the "disabled veterans' exemption." Injuries that qualify a veteran for the exemption include: 1) total disability, 2) blindness or 3) lost use of two or more limbs. The spouse of a disabled veteran is able to maintain the exemption after the veteran's death as long as the spouse is unmarried. Additionally, since 1994, the unmarried spouse of a person who, as a result of a service-connected injury or disease, dies while on active duty is able to qualify for the disabled veterans' exemption.

Section 205.5 of the Revenue and Taxation Code implements the Legislature's authority to provide a property tax exemption for disabled veterans and/or their unmarried surviving spouses. As noted in the table above, the amount of the exemption depends upon 1) type of injury and 2) household income.

COMMENTS:

1. **Sponsor and Purpose.** These provisions are sponsored by the author for the purpose of increasing the income threshold for the higher exemption amount provided to low income persons qualifying for the disabled veterans' exemption.

2. **Amendments.** The April 25 amendments, in effect, delete from SB 1362 amendments to Section 205.5 which would have made permanent the current property tax exemption amounts scheduled to sunset on January 1, 2001 and instead double joins this bill to SB 2195 (Soto), which makes identical provisions with respect to making the exemption amounts permanent. (See SB 2195 analysis for detail on this provision.)

3. **The income threshold has not changed for over 16 years.** The income threshold for the low income exemption is keyed to the threshold set for eligibility in Property Tax Postponement Program. This income threshold has not changed since 1983.

4. **This bill would provide for annual automatic increases in the income threshold level.** This bill would increase the income threshold to $40,000 for the year 2001. For the 2002 calendar year and each year thereafter the income threshold for the prior year would be adjusted by an inflation factor that is the percentage change from October of the prior fiscal year to October of the current fiscal year, in the California Consumer Price Index for all items as determined by the California Department of Industrial Relations. This is the same measurement period that is used for purposes of factoring base year values for purposes of Proposition 13 under Section 51 of the Revenue and Taxation Code, except that the actual percentage change would be used (there is a 2% cap on the inflation factor for base year values).

5. **Technical Change - CPI Measurement Period.** The annual change in the income threshold would require that the claim forms be updated annually to reflect the new

amount. While the October to October measurement period works for purposes of applying the Proposition 13 inflation factor to property assessed values, this time period is too late for purposes of the disabled veterans' exemption. The October figures are released in December, which would be six months after the date the Board must revise the claim forms and provide copies to assessors for printing and mailing to taxpayers in preparation for the upcoming tax year. To correct this timing issue, it is recommended that the percentage change instead be measured from January to January. For example, forms prepared in April 2001 for the 2002 lien date (January 1, 2002) should reflect the CPI change from January 2000 to January 2001. Suggested language is provided below:

(g) ~~To determine, for taxes that attach as a lien in 2002 and in each calendar year thereafter, whether the lower or higher exemption amount governs the amount of an exemption under this section, each household income amount applied under subdivision (a) or (c) for taxes that attached a lien during the immediately preceding calendar year shall be adjusted by an inflation factor that is the~~ annual ~~percentage change, rounded to the nearest one-thousandth of 1 percent, from October of the prior fiscal year to October of the current fiscal year, in the California Consumer Price Index for all items, as determined by the California Department of Industrial Relations.~~ Commencing on January 1, 2002 and each year thereafter the household income amount for the relevant assessment year shall be adjusted by an inflation factor that is the annual percentage change, measured from January to January of the two previous assessment years, rounded to the nearest one-thousandth of 1 percent, in the California Consumer Price Index for all items, as determined by the California Department of Industrial Relations.

6. **Disability Types.** In practice, virtually all claimants qualify for the basic exemption level of $100,000 or the low income exemption level of $150,000. The $40,000 and $60,000 levels are obsolete. Eliminating the varying amounts of the exemption for disability type conforms the statute to existing practice with the added benefit of streamlining this section of law and protecting disabled veterans who could unknowingly claim the lower exemption amount.
7. **Definition of Blindness.** According to the California Department of Veterans' Administration, the definition of "blind" in existing law is outdated. The March 15 amendment reflects the current definition used by the Veterans' Administration.

REVENUE ESTIMATE (INCOME THRESHOLD):

Background, Methodology, and Assumptions

Counties report that, for the 1999-2000 roll, there were 16,309 disabled veterans' exemptions, with a total exempt value of $1,238,751,000. The distribution by size of exemption is:

Group	Exemption Value	Count	Exempt Value Total	Average Exempt Amount
A	$40,000 or less	1,758	$52,907,000	$30,095
B	Between $40,000 and $100,000	13,934	$1,102,209,000[e]	$79,102
C	Over $100,000	617	$83,635,000[e]	$135,551

[e] Estimated based on estimates for one county and actual figures for all other counties.

A. Increase to $40,000. The higher ($150,000) exemption amount for low income disabled veterans went into effect in 1990. The income threshold initially was $24,000 and has remained unchanged since then. The revenue effect of increasing the threshold to $40,000 is difficult to pinpoint due to the lack of income data for disabled veterans' exemption claimants. As mentioned above, most counties require only claimants who are filing for an exemption over $100,000 to fill out the income statement.

It is likely, however, that most of the claimants with annual incomes between $24,000 and $40,000 would not need to file for an exemption over $100,000 because the value of their residence does not exceed $100,000. Assuming that no more than ten percent of those claiming an exemption between $40,000 and $100,000 would benefit from this proposal, and using the average of exempt value for those currently claiming the higher exemption amount, the estimated increase in exempt value is:

13,934 x 10% x [$135,551 - $100,000] = $49,500,000

The maximum annual revenue reduction from the basic 1 percent property tax is $49,500,000 x 1 percent or $495,000.

B. Annual Increase. The revenue effect of adjusting the low income threshold for inflation is difficult to estimate due to several factors including the lack of income data for disabled veterans' exemption claimants and the difficulty in predicting future inflation rates. However, in recent years, as evidenced by the Prop. 13 inflation factor, the year-to-year increases in the California Consumer Price Index (CCPI) have been low, in several years just over 1 percent.

Certainly, claimants with household incomes of nearly $40,000 would benefit from this; however, it is likely that this number is small, fewer than 100. An inflation adjustment would mean that a minor increase (say, $800, 2 percent x $40,000) in income would not trigger a property tax bill increase of as much as $500. Assuming that no more than 100 claimants would be affected, the estimated increase in exempt value is:

100 x [$135,551 - $100,000] x 102% (Prop. 13 inflation factor adjustment) = $3,626,000

The maximum annual revenue reduction from the basic 1 percent property tax is then $3,626,000 x 1 percent or $36,260.

Filing Requirements

Current Law:

The disabled veterans' exemption is generally available in two amounts[2]:

- $100,000 for qualified persons, hereafter referred to as the "basic exemption" which is provided on a one time filing basis, and
- $150,000 for qualified persons with low incomes, as specified, hereafter referred to as the "low income exemption" which requires a first time filing and subsequent annual filings to reaffirm income eligibility.

With respect to property tax exemptions that require claims, Article XIII, Sec. 6 of the California Constitution provides that the failure in any year to claim, in a manner required by the laws in effect at the time the claim is required to be made, an exemption which reduces a property tax shall be deemed a waiver of the exemption for that year.

For both levels of disabled veterans' exemption, first time filings for the basic exemption and first time filings or annual re-filings for the low income exemption, a claim must be filed between the lien date (January 1) and February 15 to receive the full amount of the exemption on the upcoming tax bill for the ensuing fiscal year (July 1 – June 30). If a claim is filed between February 16 and December 10, 80 percent of the exemption is available. If a claim is not made on or before December 10, which is the date the first installment of the property tax bill becomes delinquent, then the exemption may not be applied to taxes owing for that fiscal year. For annual re-filings of the $150,000 low income exemption, where a claim is not made on or before December 10, the exemption would not be lost completely, but would instead be reduced to the basic exemption level of $100,000.

The following table summarizes the filing provisions for the disabled veterans' exemption.

Exemption	Amount of Exemption	Filing Reqs.	Claim Filed By 2/15	Claim Filed Between 2/16 and 12/10	Claim Filed After 12/10	Refund Prior Tax Years
Basic Exemption	$100,000	One Time Only	$1,000	$800 (1000 x 80%)	$0 for current tax year	No
Low Income Exemption	$150,000	Annual Refiling	$1,500	$1,200 (1,500 x 80%)	$0 for current tax year	No

[2] In practice, despite the apparent distinction made in existing law that the amount of the exemption varies according to the type of disability, virtually all claimants meet the "totally disabled" classification. To simplify this discussion, the remainder of the analysis will refer to either the $100,000 basic exemption or the $150,000 low income exemption.

Proposed Law:

This bill would 1) revise and recast the partial exemption provisions for late filings for all claimants and 2) create a separate statute for the specific case involving a disability rating issued by the federal government with a retroactive effective date.

Late Filings – Generally. This bill would repeal the current provisions related to the amount of the exemption granted to a disabled veteran who files a claim after the final filing date for a 100% exemption, which is February 15. In effect, the new provisions would permit a partial exemption, at 85%, to be granted for prior tax years, subject to the limitations on refunds, on property for which the exemption would have been available but for the taxpayer's failure to file a claim. Additionally, for a claim filed between February 16 and December 10, it would increase the amount of the partial exemption from 80% to 90%. The following table summarizes the proposed late filing provisions.

Exemption	Amount of Exemption	Filing Reqs.	Claim Filed By 2/15	Claim Filed Between 2/16 and 12/10	Claim Filed After 12/10	Refund Prior Tax Years
Basic Exemption	$100,000	One Time Only	$1,000	$900 (1000 x 90%)	$850 (1,000 x 85%) for current tax year	**Yes, refund up to four prior tax years @ $850 per year**
Low Income Exemption	$150,000	Annual Refiling	$1,500	$1,350 (1,500 x 90%)	$1,275 (1,500 x 85%) for current tax year	Yes, refund up to four prior tax years @ $1,275 per year.

Late Filings - Delayed Disability Ratings. This bill would permit the full amount of the disabled veterans' exemption (rather than a partial exemption as provided above) to be granted retroactively for property for which the exemption would have been available but for the taxpayer's failure to receive a timely disability rating from the United States Department of Veterans Affairs (USDVA). The exemption, subject to the limitations on refunds, would be granted as of the effective date of the disability rating.

Exemption	Amount of Exemption	Filing Reqs.	Claim Filed By 2/15	Claim Filed Between 2/16 and 12/10	Claim Filed After 12/10	Refund Prior Tax Years
Basic Exemption	$100,000	One Time Only	$1,000	$1,000	$1,000	**Yes, refund up to four prior tax years @ $1,000 per year**
Low Income Exemption	$150,000	Annual Refiling	$1,500	$1,500	$1,500	Yes, refund up to four prior tax years @ $1,500 per year.

In General:

The following table summarizes the late filing provisions for various property tax exemptions where a claim must be filed to receive the exemption.

Summary of Late Filing Provisions For Various Exemptions					
Exemption	**Amount of Exemption**	**Filing**	**Due Date**	**Late Filing**	**Retroactive for Prior Tax Years**
Basic Disabled Veterans'	$100,000	One Time	2/15	80%, if by 12/10	No
Low Income Disabled Veterans'	$150,000	Annual	2/15	80%, if by 12/10	No
Homeowners'	$7,000	One Time	2/15	80%, if by 12/10	No
Veterans'	$4,000	Annual	2/15	80%, if by 12/10	No
Welfare Church Cemetery Exhibition Veterans' Organizations Public Libraries Free Museums Schools, Colleges, Universities	Generally 100%, sometimes partial exemption provided where part of property is eligible.	Annual	2/15	90%, if filed on or before January 1 of the next calendar year.* 85%, if filed after January 1 of the next calendar year.* *But not more than $250 is to be charged for those years that taxes can be canceled or refunded.	Yes If taxes were paid; four years of refunds. If taxes were not paid; taxes may be canceled for an unlimited number of years.
Religious	Generally 100%.	One Time	2/15	Same as above.	Same as above.

COMMENTS:

1. **Sponsor and Purpose.** This provision is sponsored by the author. Its purpose is to permit retroactive exemptions for prior tax years, which is prohibited under existing law.
2. **Amendments.** The April 6 amendments reflect language suggested to the author by the Board to 1) change the treatment of claims filed *on* December 10, 2) modify language intended to alert taxpayers that refunds for prior years taxes would be subject to the statute of limitations on refunds and thus a refund may not be issued for every tax year the claimant may have otherwise been qualified, and 3) delete provisions relating to granting the exemption less $250, a concept taken from the late filing provisions for other exemptions found in Section 270, which does not translate well because those exemptions generally exempt the entire property (regardless of value) whereas the disabled veterans' exemption is for a set amount.
3. **Under current law, the disabled veterans' exemption can not be granted for any year unless a claim is filed on or before December 10 of that tax year.** The exemption is available on a prospective basis once a claim is filed. This bill would effectively permit the disabled veterans' exemption to be retroactively granted, as

specified, for prior tax years. If taxes on the property were paid prior to receiving the disability rating, the number of prior tax years for which the exemption could be granted retroactively would be generally limited to four. Revenue and Taxation Code Section 5096 provides that a claim for refund must be filed within four years after making the payment. Thus, in practice, the exemption may not always be granted for every year the claimant may have been eligible. There is no statute of limitation placed on the cancellation of unpaid taxes otherwise permitted by law. Consequently, if taxes were not paid in prior years, there would no limit to the number of years that may be canceled[3].

Late Filing - Generally

4. **This provision conforms, in essence, the late filing provisions for the disabled veterans' exemption to those provided for various non-profit agencies and governmental properties.** These provisions are similar to the late filing provisions for the following exemptions: welfare, church, religious, public schools, colleges, community colleges, state colleges, state universities, free public libraries, exhibition, free museums, veterans' organizations, and cemeteries. (The current late-filing provisions for disabled veterans' exemptions are identical to those for the homeowners' exemption and the veterans' exemption.) The partial exemption amount would increase from 80% to 90% for claims filed after February 15 but on or before December 10 and refunds for prior years would be granted at 85% of the exemption amount.
5. **This measure would provide relief to those persons who were eligible for the exemption, but were unaware of the program.** Some homeowners, particularly the unmarried surviving spouses of persons who died while on active duty, are unaware that they are eligible for this exemption. The spouses of persons who died in active duty were not eligible for the exemption until after a 1992 constitutional amendment (Proposition 160).
6. **Related Legislation; Chaptering Out Issues.** AB 2562 (Brewer) also makes similar changes to Section 276. Double-joining language should be considered, in the event both bills are chaptered.

Late Filing – Disability Ratings

7. **In practice, it can take many years for a veteran to receive a disability rating from the USDVA, especially where the veteran has appealed their rating.** Some disabled veterans are uninformed of the exemption until after their disability claim is approved by the USDVA and they receive educational material on the benefits available to disabled veterans. For those aware of the exemption, but awaiting their disability rating, some counties have adopted an administrative practice where they accept the filing of a "protective claim" each year. This administrative practice allows the county to grant the exemption once the disability rating is received, since technically the claim for each tax year was filed "timely".

[3] In practice, action would commence to sell tax-defaulted property after five years of non-payment.

But this remedy is only helpful for those persons who previously have consulted with their local county assessor. Other counties may not accept or suggest "protective" claims.

8. **0ther types of situations with "back dated" effective dates would fall under the general provisions for "late filing" in proposed Section 276.** For instance, it is possible that a surviving spouse of a person who dies of a disease incurred in active duty will receive a back dated effective date that the disease was "service connected."

9. **As currently drafted, the filing provisions for back dated disability ratings may be overly restrictive.** For instance, in the worst case scenario, if a person receives their rating in the mail on December 31, they would have until the next day, January 1 (the lien date), to file a claim with the assessors office. To correct this, the following amendments are suggested:

   276.1 (b) The claimant subsequently files an appropriate claim for the disabled veterans' exemption described in Section 205.5 ~~on or before the next following lien date~~.

10. **Related Legislation.** AB 2092 (Reyes) would add Section 890.3 to the Military and Veterans Code, which with respect to property taxes, would permit the disabled veterans' exemption to be granted retroactively for property for which the exemption would have been available but for the taxpayer's failure to receive a timely disability rating from the United States Department of Veterans Affairs (USDVA).

11. **Duplicate Section Code.** AB 2562 (Brewer) would also add a Section 276.1 to the Revenue and Taxation Code, which is related to portability of the disabled veterans' exemption.

REVENUE ESTIMATE (LATE FILING):

Existing property tax law generally requires a claim for the disabled veterans' exemption to be filed no later than February 15 and provides for partial exemptions for late filings. This proposal would, in essence, raise the partial exemption from 80 percent to 85 or 90 percent, depending on whether the claim is filed prior to, or on or after December 10. This change will have very little revenue impact since once granted, a disabled veterans' exemption remains in effect until the property is no longer eligible for the exemption and it is the duty of the taxpayer to inform the assessor of this. Since this change then would affect only properties with first-time claims, it is likely that the number of properties receiving the partial exemption each year is fewer than 25. For the year that the claim is first filed, the maximum revenue effect, at the basic one percent property tax rate, of increasing the partial exemption factor from 80 percent is then:

$$(90\% - 80\%) \times \$75{,}955 \times 1\% \times 25 = \$1{,}900$$

This bill would also effectively permit the disabled veterans' exemption to be retroactively granted for up to four prior tax years, generally by refunding taxes previously paid. The maximum amount of refunds annually is:

$$(\$75,955 \times 1\%) \times 4 \times 25 = \$75,955$$

It is likely that these reductions will grow over time due to several factors including the Proposition 13 inflation factor, the slow and steady increase in the number of exemptions, growth in income, and the recovery and growth of residential market values.

Exemption Portability

Current Law:

Under current law, if a disabled veteran changes their principal place of residence on or after the lien date (January 1), the exemption does not terminate on the first home for the ensuing fiscal year (July 1 – June 30). The exemption is not allowed on the new residence until a claim is filed on the new residence or before February 15 or within 30 days of notice of supplemental assessment for the new residence, whichever occurs first.

Proposed Law:

This bill would require the full or partial cancellation or refund of taxes for property acquired after the lien date (January 1) by a person eligible for the disabled veterans' exemption and would provide for the immediate termination of the disabled veterans' exemption on the property previously receiving the exemption.

In General:

There are two alternatives by which a disabled veterans' exemption may be granted:

Alternative 1: The exemption is available to an eligible owner of a dwelling which is occupied as the owner's place of residence as of 12:01 a.m. January 1 each year. The full exemption is available if a claim is filed on or before February 15, or

Alternative 2: The exemption is available to an eligible owner of a dwelling subject to Supplemental Assessment(s) resulting from a change in ownership or new construction on or after January 1 provided,

(a) The owner occupies or intends to occupy the property as his or her principal place of residence with 90 days after the change in ownership or completion of new construction and,
(b) The property is not already receiving the disabled veterans' exemption or another property tax exemption of greater value. If the property received an exemption of a lesser value on the current roll (most often the case, the property is receiving a $7,000 homeowners' exemption), the difference in the amount between the two exemptions shall be applied to the Supplemental Assessment.

The full exemption (up to the amount of the supplemental assessment)[4], if any, is available if a claim is filed by the 30th day following the Notice of Supplemental Assessment issued as a result of a change in ownership or completed new construction. If a claim is filed after the 30th day following the Notice of Supplemental Assessment, but on or before the date which the first installment of the supplemental tax bill becomes delinquent, 80 percent of the available exemption may be allowed.
An exemption under Alternative 2 will apply to the Supplemental Assessment(s), if any, and the full exemption will be allowed for the following fiscal year(s).

COMMENTS:

1. **Sponsor and Purpose.** This provision is sponsored by the author for the purpose of ensuring that a person qualified for the disabled veterans' exemption can immediately receive the full amount of exemption on the new residence.
2. **This measure would ensure that a person who qualifies for the disabled veterans' exemption may immediately transfer the exemption from one home to another.** Under current law, it is possible that a person who purchases a home previously owned by a person who was receiving the disabled veterans' exemption will enjoy the property tax exemption for the remainder of the tax year, whereas the disabled veteran is unable to obtain the full amount of the exemption on their new residence the first year of its purchase. This measure would correct this possibility.
3. **Related Legislation; Chaptering Out Issues.** AB 2562 (Brewer) would add Section 276.1 to make similar changes. Double-joining language should be considered, in the event both bills are chaptered.

REVENUE ESTIMATE:

The provision related to exemption portability has no direct revenue impact.

REVENUE SUMMARY (RELATED TO ALL PROVISIONS)

	Annual revenue loss
Income Threshold	
Increase to $40,000	$495,000
Annual Increases	$36,260
Filing Requirements	
Percentage Change For Current Tax Year	$1,900
Retroactive Exemptions For Prior Tax Years	$75,955
Portability	0

[4] For example, although the person would be entitled to a $100,000 exemption, the supplemental assessment may be for an amount less than $100,000.

COST ESTIMATE (RELATED TO ALL PROVISIONS):

The Board would incur some minor absorbable costs to update exemption claim forms and instructions as well as inform and advise county assessors, the public, and staff of the change in law.

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This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the Board's formal position.